

Assembly Bill No. 2525

CHAPTER 771

An act to amend Sections 40709.6, 40918, 40919, and 40925.5 of, and to add Section 42301.2 to, the Health and Safety Code, relating to air resources.

[Approved by Governor September 21, 1996. Filed
with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2525, Miller. Air pollution: offsets: attainment plans: permits.

(1) Under existing law, increases in emissions of air pollutants at a stationary source located in an air pollution control district or air quality management district may be offset by emission reductions credited to a stationary source located in another district, as specified, and any credited offset is required to be approved by a resolution adopted by the governing board of the upwind and downwind districts, after considering the impact of the offset, as prescribed.

This bill would authorize each district governing board to delegate to its air pollution control officer the board's authority to approve credited offsets.

(2) Existing law prescribes various requirements to be met by districts having serious, or severe air pollution.

This bill would delete certain of those requirements and subject others to a demonstration by the state board that they will substantially expedite attainment of air quality standards.

(3) Existing law requires a district with moderate air pollution that has not met specified criteria for a nonattainment-transitional designation by December 31, 1997, to comply with requirements prescribed for districts with serious air pollution.

This bill would delete that provision and instead require a district with moderate air pollution to comply with those requirements upon a specified demonstration by the state board. The bill would revise the criteria for designation of a district as nonattainment-transitional, as specified. The bill would impose a state-mandated local program by requiring districts so designated to consider additional criteria in reviewing plans for attaining the state ozone ambient air quality standard. The bill would make related changes.

(4) Existing law authorizes the districts to establish a permit system for sources of air pollution, as specified.

This bill would prohibit a district from requiring emission offsets for any emission increase at a source that results from the installation, operation, or other implementation of any emission control device or

technique used to comply with a district, state, or federal emission control requirement, except as specified.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 40709.6 of the Health and Safety Code is amended to read:

40709.6. (a) Increases in emissions of air pollutants at a stationary source located in a district may be offset by emission reductions credited to a stationary source located in another district if both stationary sources are located in the same air basin or, if not located in the same air basin, if both of the following requirements are met:

(1) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district pursuant to Chapter 10 (commencing with Section 40910).

(2) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district, as determined by the state board pursuant to Section 39610.

(b) The district, in which the stationary source to which emission reductions are credited is located, shall determine the type and quantity of the emission reductions to be credited.

(c) The district, in which the stationary source at which there are emission increases to be offset is located, shall do both of the following:

(1) Determine the impact of those emission reductions in mitigation of the emission increases in the same manner and to the same extent as the district would do so for fully credited emission reductions from sources located within its boundaries.

(2) Adopt a rule or regulation to discount the emission reductions credited to the stationary source in the other district. The discount shall not be less than the emission reduction for offsets from comparable sources located within the district boundaries.

(d) Any offset credited pursuant to subdivision (a) shall be approved by a resolution adopted by the governing board of the upwind district and the governing board of the downwind district, after taking into consideration the impact of the offset on air quality, public health, and the regional economy. Each district governing board may delegate to its air pollution control officer the board's authority to approve offsets credited pursuant to subdivision (a).

SEC. 2. Section 40918 of the Health and Safety Code is amended to read:

40918. (a) Each district with moderate air pollution shall, to the extent necessary to meet the requirements of the plan developed pursuant to Section 40913, include the following measures in its attainment plan:

(1) A permitting program designed to achieve no net increase in emissions of nonattainment pollutants or their precursors from new or modified stationary sources which emit or have the potential to emit 25 tons per year or more of nonattainment pollutants or their precursors. The program shall require the use of best available control technology for any new or modified stationary source which has the potential to emit 25 pounds per day or more of any nonattainment pollutant or its precursors.

(2) The use of reasonably available control technology for all existing stationary sources, except that stationary sources permitted to emit five tons or more per day or 250 tons or more per year shall be equipped with the best available retrofit control technology.

(3) Reasonably available transportation control measures sufficient to substantially reduce the rate of increase in passenger vehicle trips and miles traveled per trip if the district contains an urbanized area with a population of 50,000 or more.

(4) Provisions to develop areawide source and indirect source control programs.

(5) Provisions to develop and maintain an emissions inventory system to enable analysis and progress reporting and a commitment to develop other analytical techniques to carry out its responsibilities pursuant to subdivision (b) of Section 40924.

(6) Provisions for public education programs to promote actions to reduce emissions from transportation and areawide sources.

(b) Any district with moderate air pollution that is not below the pollutant concentrations for a moderate classification pursuant to Sections 40921 and 40921.5 by December 31, 1997, shall comply with Section 40919 if the state board demonstrates that the additional requirements of Section 40919 will substantially expedite the district's attainment of the state ambient air quality standards. Any actions taken by the state board pursuant to this subdivision are subject to Section 41503.4.

SEC. 3. Section 40919 of the Health and Safety Code is amended to read:

40919. (a) Each district with serious air pollution shall, to the extent necessary to meet the requirements of the plan adopted pursuant to Section 40913, include the following measures in its attainment plan:

(1) All measures required for moderate nonattainment areas, as specified in Section 40918.

(2) A permitting program designed to achieve no net increase in emissions of nonattainment pollutants or their precursors from all permitted new or modified stationary sources which emit, or have the potential to emit, 15 tons or more per year. The program shall require the use of best available control technology for any new or modified stationary source which has the potential to emit 10 pounds per day or more of any nonattainment pollutant or its precursors.

(3) The use of the best available retrofit control technology, as defined in Section 40406, for all existing permitted stationary sources.

(4) Measures to achieve the use of a significant number of low-emission motor vehicles by operators of motor vehicle fleets.

(b) Any district with serious air pollution that has not met that criteria for a moderate classification by December 31, 1997, shall comply with Section 40920 if the state board demonstrates that the additional requirements of Section 40920 will substantially expedite the district's attainment of the state ambient air quality standards. Any actions taken by the state board pursuant to this subdivision are subject to Section 41503.4.

SEC. 4. Section 40925.5 of the Health and Safety Code is amended to read:

40925.5. (a) A district that is nonattainment for the state ozone standard shall be designated "nonattainment-transitional" by operation of law if, during a single calendar year, the state standard is not exceeded more than three times at any monitoring location within the district.

(b) Any district that is designated nonattainment-transitional under subdivision (a) shall review its plan for attaining the state ozone standard and shall determine whether the stationary source control measures scheduled for adoption or implementation within the next three years by the district are needed to accomplish expeditious attainment or to maintain the state standard following the projected attainment date. In making this determination, the district shall consider air quality trends, the effect of the state's adopted and proposed motor vehicle and area source control programs, turnover of the vehicle fleet, the impact of measures previously adopted by the district, the state board, and the Environmental Protection Agency, which are in the process of being implemented, and other significant factors influencing emissions trends.

(c) If a nonattainment-transitional district determines that one or more of the stationary source control measures scheduled for adoption or implementation within the next three years are no longer necessary to accomplish expeditious attainment or to maintain the state standard, the district shall shift those measures to the contingency category.

(d) If a nonattainment-transitional district determines that delaying one or more stationary source control measures will not

retard the achievement of the state ozone standard, it may delay that measure.

(e) Subdivisions (c) and (d) shall not apply to any stationary source control measures required by Section 39610. In addition, subdivisions (c) and (d) shall be suspended at any time that the district ceases to qualify for a nonattainment-transitional designation under subdivision (a).

(f) Actions of any district pursuant to this section are effective immediately. The state board may disapprove any action of the district pursuant to this section within 90 days of the action. The state board shall not disapprove district actions pursuant to this section unless it finds that the actions will delay expeditious attainment of the state ozone standard. Actions taken by the state board pursuant to this subdivision are subject to Section 41503.4.

(g) Actions of any district pursuant to subdivision (c) or (d) shall be reviewed by the district in connection with its next review and revision of its attainment plan pursuant to Section 40925.

SEC. 5. Section 42301.2 is added to the Health and Safety Code, to read:

42301.2. A district shall not require emission offsets for any emission increase at a source that results from the installation, operation, or other implementation of any emission control device or technique used to comply with a district, state, or federal emission control requirement, including, but not limited to, requirements for the use of reasonably available control technology or best available retrofit control technology, unless there is a modification that results in an increase in capacity of the unit being controlled.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

